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one of the leaders in this movement)—each State must educate its own people in the creation of a public opinion and in a sense of justice and obedience of law which will promote the success of this great enterprise. This work of education should begin in our schools, and continue through every stage of life, and should be directed far more than it is today to the object of making each man not only a good citizen of the Commonwealth in which he dwells, but also a good citizen of the world, exempt from vulgar prejudices against other races and nationalities—such prejudices, for instance, as load with the contemptuous name of “dago” the citizens of a country whose career has been the most illustrious of all the nations of the world. We must have an education sufficient to remove that unworthy arrogance with which we are only too prone to treat those whose color, whose habits of thought and modes of life are different from our own.

In the teaching of history, too, while we continue to give full credit to the manly virtues, courage, patriotism, fortitude, virtues which war often develops (God forbid that the day should ever come when the name of Washington should not be revered throughout the land, or when our youth should be permitted to grow up unable or unwilling to defend their country in time of need), yet history should no longer be overweighted upon the war side to such a degree as gave rise to the adage, “Blessed is the land without a history.” The developments in the life of a people, the great popular movements which peacefully transform the world—these should be given (as indeed they are now, more and more) their proper share in our instruction. More than this, we should exhibit not only the blazonry and glory of war, but its darker side as well, the dreadful suffering it entails, the universal devastation, its disastrous consequences, and the heavy burdens and small results which flow from it, even when successful, so that the coming generation may obtain a just view of the entire prospective and of all the lights and shadows upon the landscape of human life.

But something still more specific should be done to buttress and fortify public opinion in support of the decrees of an international court. The most effective way to do this is for the nations who take part in the organization of such a court mutually to agree by treaty that they will guarantee that its decrees shall be enforced. Of course there will be nothing but international public opinion behind the agreement, but public opinion is generally much stronger in favor of the fulfillment of an explicit promise than it is in favor of the fulfillment even of a moral obligation when no such promise exists. It will be more generally considered a matter of shame and dishonor for a nation not to perform that which it has solemnly agreed to do. As Henry Vivian said in the late conference at Mohonk, “I think international contracts or treaties are of vital importance in crystallizing public opinion around certain standards of international conduct. On the question of neutrality of the Great Lakes, for example, Dr. Callahan tells us, in his book on the subject, that often during the hundred years people on both sides were giving vent to passion and calling upon the United States or ourselves to break from that neutrality and put gunboats on the lakes. But statesmen were able to say, ‘There is an agreement between us,’ and that

settled the question, and the passion died down.” Let there be an agreement between the nations that the decrees of the international court shall be sustained, and the world may ultimately find in the public opinion behind that agreement as reliable a sanction as that which enforces against the States of the Federal Union the judgment of our own Supreme Court.

The Friendly Composition of International Disputes.*

By Arthur Deerin Call.

There is probably no plea more familiar to the pacifist than the plea for arbitration. Mr. Choate and others have wisely pointed out that in the first Hague Conference we find nations unanimously agreeing that respect for law, rather than for mere compromise and diplomacy, should be the essential in international arbitrations. And yet arbitration as a means of settling controversies is frequently and seriously criticised on the ground that it is most liable to be modified into a mere compromise. The criticism comes not from laymen, but from statesmen directly responsible for their governments. The question raised in this paper is, therefore, Can arbitration be relieved, at least in a measure, from this criticism? If it cannot then arbitration as a means of settling disputes, especially international disputes, may well be questioned.

The two factors in the settlement of a controversy of any kind, the ascertaining of the facts and the prescription of the remedies, may be considered in two ways—first, in a broad or general sense, relating the consideration variously to questions of fact, of law, of policies; or, secondly, they may be treated specifically in their legal aspects only. For example, “Direct Negotiation” is not over discriminating—that is, it treats the political and the legal together. It makes little attempt at analysis. It may, and often does, survey the whole international field. “Good Offices,” with its counsel or advice, may be, and usually is, little concerned with the fine distinctions of law. “Mediation,” where the third party participates as mediator, is also of this general type, the mediator being usually little concerned in separating fact, law, and policy.

“Friendly Composition,” the main principle of which is that the matter in dispute shall be referred to a public or private person or commission for decision upon the basis of fair-minded judgment, conscience, equity, is also generic. As a means of settling international disputes, it is not so much concerned with the strict rules of law as it is in settling the dispute fairly and equitably. This does not mean that the friendly composer may not decide the question in strict conformity with the rules of law, but that such a decision may be satisfactorily rendered without any reference to such rules.

It has been found that the method of friendly composition is possible not only in minor cases, but in major cases as well. The Alsop case, a major case involving a dispute between the United States and Chile for over thirty years, was, for example, decided directly in ac-

*Read before the American Society for the Judicial Settlement of International Disputes, December 6, 1913.

cordance with the principle of friendly composition. There have been numerous other cases.

The central principle of friendly composition may be compromise, an ancient and honorable method of settling international disputes. The fact that arbitration is endangered by the fear that it may become mere compromise is a criticism not of compromise, but of the loose construction we place upon the ends and purposes of arbitration. The suggestion here offered is that arbitration might well be left to the second class of settlements—that is, to the field of strict judicial procedure. This would leave the way definitely open for the operation of friendly composition in case of controversies susceptible of settlement upon the high ground of conscience and friendly compromise.

Switzerland, ancient scene of many arbitrations, especially after the year 1291 to the establishment of a permanent judicial tribunal in 1848, presents many an illustration of a third party functioning both as friendly compositor and arbiter. Indeed, it was long the principle and practice of arbiters to begin their proceedings as friendly compositors. Only after the method of friendly composition had failed were the items in dispute considered in respect of the principles of law.

While this particular form of adjusting before deciding has largely ceased as the acknowledged practice of modern arbitrations, the importance of that first step in the older proceeding still influences, it is believed, the findings of arbiters. But the possibilities latent in friendly composition as a possible solution of difficulties arising under various international controversies are largely ignored. International practice is as if no such method were possible. Where the principle is recognized it is so merged with the conception of the duties of the arbiter as to lead to confusion. It is thus that arbitration as a means of settling international disputes is feared by governments. The lack of definiteness as to the function of the arbiters has confused the issue. It is undoubtedly true that arbitration at the present time may mean compromise, or it may mean purely a judicial decision. In consequence governments perfectly willing to submit controversies of a legal nature to a judicial body balk at the suggestion of arbitration.

Since this serious obstacle to the effective settlement of international disputes is due to a confusion of definition, I venture to ask if it would not make for a distinct advantage if we were to take from the arbiter all duties not strictly of a judicial character and provide a freer opportunity for the services of the friendly composer? There certainly is a large place for such a service. The principle of give and take, of fair dealing, of ascertaining the facts and prescribing remedies on the bases of conscience and equity makes a genuine and potential appeal to high-minded disputants.

It would seem reasonable that nations may, as quite recently in the case of the United States and Chile, and as in the case of other nations from time to time, take recourse to the friendly composition of their differences, and thuswise enlarge the field of peaceful settlement. Such an accomplishment is certainly desirable.

In article 8 of the treaty of July 29, 1898, between Italy and Argentina, we find these suggestive words:

"The tribunal shall make its award according to the principles of international law, unless the *compromis* prescribes special rules to be applied and does not authorize the arbiters to pass upon the question as friendly compositors."

The significance of these words is perfectly clear. The arbiters were to decide the controversies not as friendly compositors unless specifically *authorized* by the *compromis*, but as judges upon the bench, in other words as real arbiters.

If the function of friendly composition could be clearly defined, or at least separated from that of arbitration, and if it were once understood that arbiters should not directly or indirectly act as friendly compositors except in specific instances set forth in the *compromis*, nations would feel justified in accepting a genuine judicial decision from the arbiter and leave the field open for the honest, well-meaning, fair-minded, important friendly composer, where such would be acceptable.

In fine, there is an important field for the services of the friendly composer. If we could wisely and carefully take from the arbiter all functions of the friendly composer in any given case of difference, the objection that the arbitration might be vitiated by compromise would largely disappear. And, what is of equal importance, to limit, define and strengthen the powers of the friendly composer would advance effectively the judicial settlement of international disputes.

A Plea for the Small Town.

By Louis P. Lochner.

In view of the increasing tendency of our population to move from the country-side to the city, it is eminently fit and proper that organized pacifism should direct its efforts chiefly to making propaganda for the cause in the congested centers of population—the large cities. It is here that the largest audiences can be reached at a minimum of expenditure of energy. It is here that an international atmosphere is created in the very cosmopolitanism of the audience that greets a speaker or of the reading clientele that purchases the penny news sheet.

It is also true that the message of internationalism is perhaps most easily grasped by the college man. Scholarship in its very nature is international, and the scientist, the historian, the linguist, the technician, the theologian—each is dependent upon international co-operation and the cumulative services of men in all countries for the realization of the greatest progress in his special field of endeavor. The average college man or woman is therefore a pacifist, or at least an internationalist, almost without knowing it, and it needs but a logical, clear-cut presentation of the peace problem to convert him or her from a passive into an active, from an unconscious to a conscious supporter of our cause.

It is not surprising, then, that we find every "big" international man who comes to our shores alternating his whirlwind peace campaign between college town and metropolis. And usually it is the City Club, the Peace Society, the University, the Chamber of Commerce, that is addressed. The distinguished foreigner—like the Baroness von Suttner, Count Apponyi, Baron d'Estour-